



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

EXTERNAL AFFAIRS DIVISION

231 Capitol Avenue
Hartford, Connecticut 06106
(860) 757-2270 Fax (860) 757-2215

**Testimony of Deborah J. Fuller
Judiciary Committee Public Hearing
April 1, 2013**

**H.B. 6661, An Act Concerning Use and Occupancy Payments
in Summary Process Matters**

Senator Coleman, Representative Fox, Senator Kissel, Representative Rebimbas, and members of the Judiciary Committee, thank you for the opportunity to submit written testimony, on behalf of the Judicial Branch, on **H.B. 6661, *An Act Concerning Use and Occupancy Payments in Summary Process Matters***. The Judicial Branch is concerned about the impact that this bill would have on our courts, as follows:

1. We anticipate that the requirement for the court to act upon motions filed by landlords for use and occupancy payments without a hearing (unless an objection is filed) would significantly increase the number of these motions that are filed. It is likely that almost every summary process action would be accompanied by a motion for use and occupancy. This would overburden the clerks' offices, which be required to process these motions and manage the collection of use and occupancy payments into court.
2. Shortening the time allowed for a defendant to file an objection to a motion for use and occupancy payments from 10 days to 5 days is not workable. With the consolidation of post offices and the routing of mail, this time could very well pass without the defendant having received the motion by mail, thereby ensuring that defaults occur in a large number of cases.
3. The requirement for a defendant to post use and occupancy payments before being allowed to file an answer to the complaint alleging potential defenses, and allowing a default judgment to enter if the payment is not made, raises serious access to justice concerns and may even be unconstitutional. Indigent tenants will never be given a trial

on the merits. There doesn't seem to be any other cause of action where the plaintiffs are given such extraordinary rights.

4. In lines 63-72, the requirement that any motion to open a default judgment be accompanied by the payment of use and occupancy as ordered, will cause any defendant who may have been defaulted because of improper service and therefore did not object to the motion for use and occupancy payments to be penalized and required to pay the use and occupancy before they are allowed to file a motion to open. Again, this raises access to justice concerns.

In conclusion, we urge the Committee not to act favorably on this proposal. Thank you for your consideration.